



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
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FCC ANNOUNCES IT IS PREPARED TO GRANT BROADCAST CONSTRUCTION PERMIT TO MONDY-BURKE BROADCASTING NETWORK AFTER FINAL PAYMENT IS MADE

Balance of Winning Bid due by June 2, 2003

Auction No. 25

On October 8, 1999, the Federal Communications Commission completed the auction of 118 broadcast construction permits for new AM, FM, FM Translator, full power television, low power television and TV Translator stations.¹ After a preliminary review of the FCC long-form applications (FCC Form 301, 346 and 349), all of the applications were accepted for filing.² One of the applications accepted for filing was that of Delta Radio, Inc. ("Delta"), the winning bidder in Mutually Exclusive Group FM 73 of Auction No. 25, for a new FM broadcast construction permit at Greenville, Mississippi.³ Delta's application was dismissed after it defaulted by failing to make its final auction payment in a timely manner.⁴ Pursuant to Section 1.2109(c) of our Rules,⁵ the Greenville construction permit was offered to Mondy-Burke Broadcasting Network ("Mondy-Burke"), the next highest bidder in Mutually Exclusive Group FM 73.⁶ Mondy-Burke made its down payment on September 11, 2002, and has been

¹ See *Public Notice*, "Closed Broadcast Auction No. 25 Closes," DA 99-2153 (MMB/WTB October 12, 1999).

² See *Public Notice*, "Closed Broadcast Auction Winning Bidder Applications Accepted For Filing," DA 99-2709 (MMB December 3, 1999).

³ File No. BPH-19950417ME.

⁴ *Letter to Mr. Larry Fuss, Barry D. Wood, Esq., and Mondy-Burke Broadcasting Network*, 17 FCC Rcd 16324 (MB 2002).

⁵ 47 C.F.R. § 1.2109(c). See also *Implementation of 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Services, First Report and Order* in MM Docket No. 97-234, GC Docket No. 92-52 and GEN Docket No. 90-264, 13 FCC Rcd 15920, 15952 & n.80 (1998) ("*Broadcast First Report and Order*").

⁶ File No. BPH-19950413MC. See *Broadcast First Report and Order*, 13 FCC Rcd 15952, 15953 n.81 (while Section 1.2109 generally gives the Commission discretion either to re-auction licenses to existing or new

found legally and technically qualified to be a Commission licensee, and that grant of a construction permit would be in the public interest, convenience, and necessity.

By this Public Notice, the Media Bureau, under delegated authority, announces that it is prepared to grant Mondy-Burke's construction permit application, listed in **Attachment A** of this Public Notice, following the full and timely payment of the remaining balance of Mondy-Burke's high bid.⁷ Therefore, in accordance with the procedures adopted in the *Broadcast First Report and Order*,⁸ a lump sum final payment from Mondy-Burke must be received by the Commission within **ten business days** of the date of this Public Notice (*i.e.*, by June 2, 2003).⁹

Note that the Commission's Part 1 competitive bidding rules provide for an additional ten business day grace period for applicants who fail to meet the initial ten business day payment deadline.¹⁰ Section 1.2109(a) of the Commission's Rules provides that if a winning bidder fails to pay the balance of its winning bid(s) in a lump sum by the applicable deadline specified by the Commission, it may make a late payment within ten business days after the payment deadline (*i.e.* by June 16, 2003), provided that it also pays a late fee equal to five percent of the amount due.¹¹ If Mondy-Burke fails to pay the balance of its high bid by the late payment deadline of June 16, 2003, it will be considered in default and subject to the applicable default payment and procedural provisions specified in the Commission rules.¹² In such an event, it will also be assessed default payments as prescribed by Commission rules. *See generally* 47 C.F.R. §§ 1.2104 (g)(2), 1.2109(a).

By public notice, the Media Bureau will announce the grant of Mondy-Burke's construction permit after the Commission has received timely final payment of the high bid amount. An individual facility authorization will be issued shortly thereafter.

applicants, or to offer licenses to other high bidders in the event of default by, or disqualification of, the winning bidder, offering the construction permit to the next highest bidder best comports with the statutory participation restrictions in Auction No. 25).

⁷ See 47 C.F.R. § 73.5006(d) (a public notice will be issued announcing that the broadcast construction permit is ready to be granted if the Commission denies or dismisses all petitions to deny and is otherwise satisfied that an applicant is qualified).

⁸ See note 5 *supra*.

⁹ See 47 C.F.R. § 1.2109(a).

¹⁰ See Amendment of Part 1 of the Commission's Rules -- Competitive Bidding Procedures, WT Docket No. 97-82, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd 374 (1997) (amending the Commission's Part 1 competitive bidding rules); *see also* 47 C.F.R. § 1.2109(a).

¹¹ See 47 C.F.R. §§ 1.2109(a), 73.5003.

¹² See *e.g.* 47 C.F.R. §§ 1.2104(g)(2), 1.2109, 1.2107(b); *see also* Public Notice, "Wireless Telecommunications Bureau Will Strictly Enforce Default Payment Rules," DA 96-481, 11 FCC Rcd 10853 (WTB 1996).

PAYMENT INSTRUCTIONS

All payments must be made in U.S. currency in the form of a wire transfer. *See* 47 C.F.R. § 1.2107(b). No personal checks, cashier's checks or other forms of payment will be accepted.

Wire transfer payments must be received by Mellon Bank by **6:00 p.m. Eastern Time, on June 2, 2003 (or 6:00 p.m. Eastern Time, June 16, 2003, along with the five percent late fee)**. Applicants must allow sufficient time for the wire transfer to be initiated and for the transmission to be completed prior to the deadline. To submit funds by wire, applicants will need the following information to properly effect the transmittal:

ABA Routing Number: 043000261
Receiving Bank: Mellon Pittsburgh
BNF: FCC/Account #911-6106
OBI Field: (Skip one space between each information item)
"AUCTIONPAY"
FCC REGISTRATION NO. (FRN) (same as FCC Form 159, Block 11 OR 21)
PAYMENT TYPE CODE (enter "A25D")
FCC CODE 1 (same as FCC Form 159, Block 28A: "25")
PAYOR NAME (same as FCC Form 159, Block 2)
LOCKBOX No.: 358850

Payment must be accompanied by a completed FCC Remittance Advice Form (FCC Form 159). On the same business day that the applicant pays the balance due to Mellon Bank, the applicant must submit a completed FCC Form 159 via facsimile at (412) 209-6045, at least one hour prior to placing the order for the wire transfer. On the FCC Form 159, applicants must use the same FCC Taxpayer Identification Number (TIN) used on their Form 175.

For questions regarding the calculation and submission of final payment, the FCC Form 159 and refunds, contact Gail Glasser or Tim Dates, Office of the Managing Director, Financial Operations Center, Auctions Accounting Group, at (202) 418-0578 or (202) 418-0496. For questions regarding legal and licensing issues, contact Lisa Scanlan or Tom Nessinger, Media Bureau, Audio Division, at 418-2700.

This Public Notice contains the following attachment:

Attachment A: Auction 25 Application Ready for Grant